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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Working Group on Contemporary Forms
of Slavery

Eighteenth session, 17-28 May 1993
Item 6 of the provisional agenda

DEVELOPMENT OF NATIONAL AND INTERNATIONAL MEASURES AND STRATEGIES TO PREVENT AND ELIMINATE CONTEMPORARY FORMS OF SLAVERY

Report of the Secretary-General submitted pursuant to paragraphs 25 and 26 of Sub-Commission resolution 1992/2

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Introduction

1. In its resolution 1992/2, paragraph 25, the Sub-Commission on Prevention of Discrimination and Protection of Minorities requested the Working Group on Contemporary Forms of Slavery to study the possibility of preparing guiding principles for combating the various contemporary forms of slavery and to endeavour to identify the spheres in which such guiding principles could be applied. In paragraph 26, the Sub-Commission requested the Secretary-General to seek the views and suggestions of Member States and governmental and non-governmental organizations on this subject with a view to the consideration of their replies by the Working Group at its future sessions.

2. In light of the above, the Secretary-General sent notes verbales and letters to Member States, governmental and non-governmental organizations on 5 November 1992. The replies are summarized in the present document.

I. INFORMATION SUBMITTED BY GOVERNMENTS

PHILIPPINES

[Original: English]
[23 March 1993]

1. Amend paragraphs 25 and 26 of Sub-Commission resolution 1992/2, the Philippines Department of Social Welfare and Development, pursuant to Republic Act 7610 (Sect. 4, art. II), mandating the formulation of a comprehensive programme on child abuse, exploitation and discrimination, etc., spearheaded a consultation dialogue on 15-16 December 1992 with the Department of Justice, Commission on Human Rights, Bureau of Immigration and Deportation, Department of Tourism, Department of Foreign Affairs and concerned non-governmental organizations, with a view to identifying the areas of collaboration and adopting a responsive intervention/programme for the effective implementation of the State's policy on the matter. The formulation of the comprehensive programme is still in process. We shall provide the United Nations Centre for Human Rights with the programme of action as soon as it is ready for implementation.

SOUTH AFRICA

[Original: English]
[26 March 1993]

The following information was provided by the South African Department of Manpower:

1. As far as labour legislation as such is concerned, the Department of Manpower administers, inter alia, the Labour Relations Act, 1956, the Basic Conditions of Employment Act, 1983 and the Wage Act, 1957.

2. The objects of the Labour Relations Act, 1956 are the registration and orderly administration of trade unions, employers' organizations and industrial councils, the prevention and settlement of disputes between employers and employees, and the regulation of conditions of employment by way of arbitration, mediation, agreements and orders. The Industrial Court and the Labour Appeal Court are both instruments established in terms of the Act to adjudicate on matters arising from labour disputes between employers and employees.

3. The Basic Conditions of Employment Act provides for basic conditions of employment for all workers in the private and local government sectors that fall outside the scope of the Labour Relations Act and the Wage Act (excluding farm workers, employees of private households and employees of the State).

4. As far as farm workers are concerned, an amendment of the Basic Conditions of Employment Act for the inclusion of these workers within the ambit of the Basic Conditions of Employment Act, 1983, was passed by Parliament and published in July 1992. The date on which the Amendment Act is to come into operation is still to be considered by the main participants in this regard. It is expected, however, that the Amendment Act will in all

probability come into force during the first quarter of 1993. The Basic Conditions of Employment Amendment Act to extend the conditions of the Basic Conditions of Employment Act to domestic workers was published on 24 December 1992 for general comment.

5. As far as the Wage Act is concerned, the objects of this Act are the establishment of a Wage Board and the determination of minimum wages and other conditions of employment for employees who are not sufficiently organized to make effective use of the negotiation mechanisms of the Labour Relations Act. The Wage Act does not apply to farm workers, employees in private households or the State. A draft Amendment Bill was, however, published on 24 December 1992 with the object of inviting interested parties to comment on the proposed amendment of the Wage Act to empower the Wage Board to undertake an investigation into the farming industry with a view to determining wage guidelines. These guidelines will take the special circumstances that prevail in the agricultural sector into consideration.

6. A draft Amendment Bill, regarding a proposed amendment of the Labour Relations Act to make provision for dispute settlement procedures and ancillary matters in the farming industry, was published on 31 December 1992, inviting comments thereon from interested parties. Final Amendment Bills in regard to the amendments concerning the Wage Act and Labour Relations Act will be submitted by the Department of Manpower to Parliament after comments received have been processed.

7. Concerning legislation to govern labour relations in the public sector, a Public Service Relations Bill (B13-93) was recently introduced in Parliament by the Ministry for Administration and Tourism and is receiving consideration.

The Department's views regarding contemporary forms of slavery are the following:

8. Contemporary forms of slavery, as envisaged by the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, can occur in many ways. In the labour field it can only take place in an environment where the absence of suitable labour legislation could lead to such practices.

9. Except for the absence of labour legislation for farm and domestic workers and employees of the State, a matter which is seriously being addressed now, the extent of labour legislation in the Republic of South Africa, as described in the preceding paragraphs, is of such a nature and covers such a wide terrain of the South African labour field that the enforcement of these laws would prevent the occurrence of these malpractices.

10. South African labour law has, since its inception, prohibited the employment of youth under the age of 15 years, which is in line with the International Labour Organisation and international standards in this regard, preventing the misuse of children in any field of operation covered by the Republic of South Africa labour legislation.

11. The extent to which efforts are at present being made to include farm and domestic workers and employees of the State to participate in the climate of

protection by legislation will ensure that no employee would be induced to offer services in an environment of suppression or restriction.

12. Farm labour has, for quite some time now, been under intense scrutiny from the international community, as well as from certain local organizations. Farmers were severely criticized for practices which developed over the years and which were to a certain extent misconstrued because of the circumstances which prevailed in this industry over some time. Organized farmers therefore realized that their credibility in this regard is under suspicion and the only way to save face is to create positive changes in practices developed previously.

13. To this end, farmers have participated regularly with the Department and organized labour in discussions, in an effort to address the question of basic conditions of employment for farm workers. Although the Basic Conditions of Employment Amendment Act concerning the agricultural sector has, as indicated, been published, and will in all probability come into operation this year, farmers are of the opinion that a separate act for agriculture would be more viable. As a side issue, organized farming is therefore endeavouring to draw up a separate act for agriculture. By participating in this effort, farmers are indicating that they accept that labour legislation, in respect of their workers, is inevitable.

SUDAN

[Original: English]
[28 January 1993]

1. Sudan is prepared to join the international community in setting guiding principles for combating the various contemporary forms of slavery, creating an awareness of such practices through education and the mass media.

2. Statistics do not show a single crime on the sale of children, child prostitution or child pornography. However, the Sudanese Government enacted the Juvenile Welfare Act, 1983 and the Child Welfare Act, 1971; both make it the State's responsibility to protect children. Under the latter Act a Council for Child Welfare was established. The Acts were especially geared towards the welfare of orphans and homeless children. We have no allegations involving sale of children, child prostitution and child pornography.

3. Sudanese society never knew the involvement of children in armed conflicts, but unfortunately the Garang rebel movement in the southern part of the Sudan took thousands of Sudanese children from their mothers' laps and denied them their rights to a family life and education, and involved these children in their armed conflicts with successive Sudanese Governments. The United Nations has been informed of these incidents.

II. INFORMATION SUBMITTED BY SPECIALIZED AGENCIES

INTERNATIONAL LABOUR OFFICE

[Original: English]
[17 February 1993]

1. As concerns children, the Programme of Action against Child Bondage,* adopted by the participants in the Seminar on children in bondage which took place in Pakistan in November 1992 and was organized by the International Labour Organisation in collaboration with the Centre for Human Rights, might be a useful contribution to the work of the Working Group on Contemporary Forms of Slavery and the Sub-Commission in this matter.

2. Further bases for principles concerning children can be found in the ILO's Minimum Age Convention (No. 138) and Recommendation (No. 146), 1973; and of course in the appropriate provisions of the Convention on the Rights of the Child.

3. As concerns more general principles for combating slavery and other forms of forced or compulsory labour, we refer to the Forced Labour Convention, 1930 (No. 29) and to the Abolition of Forced Labour Convention, 1957 (No. 105).

III. INFORMATION SUBMITTED BY NON-GOVERNMENTAL ORGANIZATIONS

END CHILD PROSTITUTION IN ASIAN TOURISM

[Original: English]
[10 February 1993]

The following information concerns the national legislation of Viet Nam dealing with child exploitation and sex tourism.

1. Prostitution is illegal and pimps and brothel owners or organizers are to be prosecuted and punished. However, prostitution is reaching alarming levels. According to Vietnam News (13 December 1992), in Ho Chi Minh City alone there are 20,000 professional prostitutes and 30,000 others who are part-time prostitutes. Of 2,628 prostitutes surveyed, 169 are under 18 and 1,688 are between 18 and 30. Worse still, "virgin trading" has recently been detected in Ho Chi Minh City and Hanoi, mostly to cater for rich, extravagent men, most of them foreigners. Trading in and kidnapping young girls to sell to brothels have also been discovered here and there. Prostitutes sell sex in dark corners, in parks, along roads and other public places during the nights as well as in hidden brothels. "Sex service" is available in most room-renting establishments, even in the hotels and rest houses under State management. Little is known about the growing child and male prostitution.

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* Copies of the Programme of Action are available with the Secretariat.

2. Tourism is one among various factors of growing prostitution. In 1989, 215,000 foreigners visited Viet Nam and the figure rose to 300,000 in 1991 and was much higher this year due to rapid social and economic changes in the country. It is anticipated that by the year 2000, Viet Nam will receive an influx of 1 million tourists a year. Domestic tourist activities are seeing a real boom in recent years, from 750,000 travellers in 1989 to 1.5 million in 1991, a 40 per cent increase every year. Hotels and guest houses are mushrooming everywhere.

3. In a recent national juridical conference, Vietnamese Prime Minister Mr. Vo Van Kiet reiterated the Government's determination to outlaw "sex business" in any form. On 12 May 1992 the Minister of the Interior dispatched an official message to the police chiefs in all localities to ask them to strengthen control of all hotels and inns in a bid to check prostitution.

4. The Law on Child Protection, Care and Education (art. 14), in force since August 1991, states that the enticing or initiation of children into prostitution, the sale or offer of children are strictly prohibited.

5. The Penal Code provides:

(a) Penalties of imprisonment from 5 to 7 years for rape of minors aged 13 and over and imprisonment from 7 to 15 years for forced sexual intercourse with a child under 13 (arts. 112, 113 and 114);

(b) Any person convicted of kidnapping and trading in chidren shall serve a jail term of 1 to 7 years; the term would be 5 to 20 years in serious cases (art. 149);

(c) Any individual convicted of organizing or encouraging prostitution shall be imprisoned for 6 months to 5 years; in case of repetition or serious consequences, it would be 3 to 10 years (art. 202).

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of Slavery

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Item 6 (b) of the provisional agenda

DEVELOPMENT OF NATIONAL AND INTERNATIONAL MEASURES AND STRATEGIES TO PREVENT AND ELIMINATE CONTEMPORARY FORMS OF SLAVERY: ENCOURAGEMENT OF THE CREATION OF NATIONAL INSTITUTIONS FOR THE PREVENTION OF PROSTITUTION AND THE ECONOMIC AND SOCIAL REINTEGRATION OF PROSTITUTES

[Original: FRENCH]
[16 February 1993]

1. Traffic in women is international and it is organized on a large scale. The majority of the women are brought to Europe from South-East Asia, Latin America and some regions of Africa. The traffic can also occur between countries of the same continent and from one European country to the other.

2. In the last 10 years, the presence of prostitutes from third-world countries on the European prostitution market has become a structural and permanent social phenomenon. Their numbers are growing steadily and the situation of marginalization and the lack of social welfare in which they live is becoming increasingly critical.

3. The precariousness and objective weakness of their position, as well as the many factors that cause it, urgently require not only the adoption of an active policy in the different areas but also, considering how widely the women circulate in the European countries, the adoption of common European policies and international guidelines.

4. With a view to emancipating and protecting the migrant prostitutes, specific instruments for action should be created in order to increase and develop some genuine alternatives for life and work, both in the country of origin and in the host country. The best instrument to combat the phenomenon of the traffic and all the forms of exploitation of the persons involved in it is the strengthening of the social position and the economic status of these women.

5. As far as the social welfare and the protection of the women are concerned, this will take the form of the establishment and development of institutions and foundations which have an expert staff who understand their problems.

6. The field of legal action is very broad. It can also be said, again with a view to emancipation and protection, that a distinction should be made between two policies: one of legal protection for persons who are victims of the traffic and one of combating the organization of the traffic, enforced prostitution and the prostitution of minors.

7. Prevention and information also constitute an area of action which, like legal action, given the international nature and migratory aspect of the traffic, can only yield results through a policy of international action and cooperation.

8. This calls for international policies and agreements between countries and Governments, as well as greater cooperation between non-governmental and grass-roots organizations.

9. It is also important that such activities should be able to reach the women both in their countries of origin and in the host countries.

10. Moreover, such activities and cooperation should take place on "neutral" ground and not through any bodies or organizations which could utilize them for purposes of coercion or repression. The experiments in the countries where such activities and cooperation were carried out by groups of women, grass-roots organizations and prostitutes' organizations have yielded positive results.

11. Given the social and international scale of the problem, it is essential that priority should be given to active intervention by the organizations providing economic support for those regions in cooperation with local organizations, in order to establish the form, resources and purposes of the projects.

12. It is also vitally important to improve the international communication channels and the networks of those organizations, including the prostitutes' groups or their support groups and the other groups and organizations which have contacts with prostitutes migrating to Europe.

Recommendations

13. Considering that:

The presence in Europe of prostitutes from the developing countries has, over the last 10 years, become a social phenomenon that has acquired a permanent and structural character,

On the one hand, the number of these women is constantly increasing while, on the other hand, the situation of social marginalization and the lack of social welfare in which they live is becoming more and more critical,

A repressive European policy (concerning prostitution and the frequently illegal presence of the migrant prostitutes) is futile and incompatible with the aim of protecting the victims of the traffic and the persons who engage in prostitution of their own volition,

It is recommended that the following measures should be taken:

(a) The establishment of a special European commission to coordinate and promote joint social policies for the protection, support and defence of the migrant prostitutes;

(b) Support for and assistance in creating migrant prostitutes' organizations and support organizations;

(c) Specific projects for the education, vocational training, legal and social assistance and guided and voluntary re-emigration of the migrant prostitutes;

(d) The setting up of special health assistance programmes using qualified personnel who know the mother tongue of the persons whom they are looking after;

(e) The appointment of reliable persons to work as contacts between the prostitutes and the various authorities of the country, and who should be in a position to guarantee the anonymity and protection of their clients;

(f) A European study (working group) which will make it possible to create a legal status that by recognizing the specific situation of these women, enables those who so desire to reside in a European country with a residence permit in their own name. The granting of a residence permit, even a temporary one, issued on humanitarian grounds, for example, would assure those persons of some measure of independence and protection. Legal residence in a European country would also enable these women to denounce the persons who trafficked in them or even those who were taking advantage of them.

14. Considering that the organization of the traffic in women has an international character and that this involves international migrations of women,

It has become important to develop a policy of international cooperation in the areas of prevention and information.

It is recommended that women who are contemplating leaving their country should be informed about the real conditions of life and work abroad, and of the possibility or otherwise of entering a country legally. It is also necessary to inform the women who have knowingly chosen to work in prostitution. In such cases, they should be told what opportunities exist in that sector and be given an indication as to the means that can enable them to work independently.

The area of prevention implies not only better information but also a number of activities, economic and educational assistance and assistance in vocational training, enabling the women to become more independent and better able to withstand the various forms of exploitation, including sexual exploitation. In pursuit of these goals, an international commission could be formed for the following purposes:

(a) To develop policies of international solidarity;

(b) To make an inventory of projects in these two areas proposed by prostitutes' organizations, grass-roots and non-governmental organizations, in the countries of origin of the migrant prostitutes;

(c) To support the prostitutes' organizations and the solidarity groups and draw up an inventory and make an evaluation of the projects already existing in these areas;

(d) To encourage and coordinate better cooperation between the continents (in the countries of origin and the countries of destination) and information between the organizations which support and assist the migrant prostitutes.

15. Considering that repressive measures against the traffic should in no way endanger the physical security of the migrant prostitutes or make these women more dependent,

Having regard, furthermore, to the fact that to date the international agreements have proved to be inadequate and hardly applied in practice, as far as combating the traffic in persons and protecting the human rights of the victims of this traffic is concerned,

On the basis of these considerations, an international working group could be formed with the specific tasks of:

(a) Analysing how the current international agreements can be revised and rendered more effective;

(b) Developing two separate and specific action strategies (concerning the legal definitions, the investigation and research methods and the implementation of the measures against the traffic);

(c) The first area of action is the fight against organized crime at the international level and against the organizations which control and create the traffic in persons. The second area consists of measures to guarantee the legal protection and the human rights of the persons who are victims of this traffic.

Protection of fundamental human rights also means protection of the freedom of movement, travel and complete freedom to dispose of one's body as one chooses. Moreover, all kinds of special surveillance conditions with respect to prostitutes and all forms of discrimination should be considered as violations of human rights.

16. Considering that there is little information and few representative and relevant data on this phenomenon,

It is recommended that research both qualitative and quantitative, which can help to further knowledge about the traffic in persons and the presence of migrant prostitutes in Europe should be encouraged and supported.

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